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EXAMINER

ROBINSON BOYCE, AKIBA K

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/626,576

Applicant(s)

HAY ET AL.

Examiner

Akiba K Robinson-Boyce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 and 52-86 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 and 52-86 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. Claims 1-35, and 52-86 are pending in this application and have been examined on the merits. The previous rejection has been withdrawn and the following rejection reflects the claims as amended.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/6/03 has been entered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-35 and 52-86 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in

the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As per independent claims 1, 18, 52 and 69, the following limitation: "develop a set of farms capable of growing a crop of interest" is not supported by the specification. The examiner is unable to find where such limitation is disclosed in the specification. Therefore, one skilled in the art would not know how to make and/or use the invention. All claims that depend on independent claims 1, 18, 52 and 69 are rejected for the same reasons as described above with respect to claim 1, 18, 52 and 69.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-35 and 52-86 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per independent claims 1, 18, 52 and 69, the phrase "develop a set of farms capable of growing a crop of interest" makes the claim indefinite. The applicant needs to go into more detail about how the machine is caused to develop a set of farms capable of growing a crop of interest. The phrase by itself is not distinct enough to clarify the claim. All claims that depend on independent claims 1, 18, 52 and 69 are rejected for the same reasons as described above with respect to claim 1, 18, 52 and 69. Correction is required.

Claim Rejections - 35 USC § 103

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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-4, 6, 9, 10, 11, 13-22, 24, 27-29, 31-35, 52-55, 57, 60, 61-62, 64-73, 75, 78-80, 82-86 are rejected under 35 U.S.C. 103(a) as being obvious over Rawlins in further view of Press-Enterprise's article "Flowers Grow Into Profitable, Global Business".

As per claims 1, 18, 21, 52, 69, 72, Rawlins discloses:

A database...a farm identifier in communication with the database to develop a set of farms capable of growing the crop of interest.../developing a set of farms.../wherein the step of developing the set of farms is performed by accessing a database...(Col. 2, lines 17-19 w/ Col. 3, lines 50-52, where the examiner is interpreting the 'sample points' of Rawlins as the farm of the present invention and the 'values in longitude and latitude' of Rawlins as the farm identifiers of the present invention and the database as 'storage' in Rawlins);

A competition analyzer cooperating with the farm identifier to estimate profits.../estimating profits...(Col. 7, lines 15-28);

An offer developer cooperating with the competition analyzer to determine possible offers to be made to the farms in the set of farms.../determining possible offers...(Col. 6, lines 7-10, and lines 31-39, where the field positions are in competition and the offer developer is analogous to the marker dispenser since it inserts a crop

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marker into the crop stream right before the crop marker is correlated or allocated to the selected field position);

based at least in part upon the estimated profits to be earned for growing the at least one crop...(Col. 5, lines 42-45, Col. 7, lines 15-28, where the offer is based on a match between the selected field position and the actual field position, which is ultimately based on the quality of the crop which is co-dependent with the profits for a crop);

A farm selector cooperating with the offer developer to select farms.../selecting farms...(Col. 6, lines 37-39, where the farm selector is analogous to the crop marker and the farm is analogous to the field or the crop stream in Rawlins).

Rawlins fails to disclose the following, however Press-Enterprise discloses:

the set of farms including a first farm associated with a first farmer and a second farm associated with a second farmer...(Page 1, 3rd paragraph, lines 1-2 w/ Page 2, last paragraph, line 1-Page 3, 2nd paragraph, line 5, where the set of farms is represented by the hundreds of flower farms which are offered subsidies to grow flowers instead of coca plants).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to include a set of farms including a first farm associated with a first farmer and a second farm associated with a second farmer with the motivation of setting up a competitive environment, which would make it easier to persuade at least one of the farms to grow a certain crop.

As per claims 2, 19, 53, 70, Rawlins discloses:

Wherein the farm selector selects farms.../wherein the step of selecting farms is based upon at least one of : the estimated profits developed...(Col. 7, lines 15-28).

As per claims 3, 20, 54, 71, Rawlins discloses:

Wherein the farm identifier identifies the set of farms based upon at least one of ...farm capability to grow the crop of interest.../wherein the step of developing the set of farms performed by considering at least one of: ...farm capability to grow the crop of interest ...(Col. 6, line 48-Col. 7, line 2).

As per claims 4, 22, 55, 21, Rawlins discloses:

Wherein the database comprises at least one of: a product database...(Col. 6, lines 11-14, [wherein the examiner is interpreting the crop as the product]).

As per claims 6, 24, 57, 75, Rawlins discloses:

Wherein at least one of the at least one database comprises a local database...(Fig. 1 [17]).

As per claims 9, 27, 60, 78, Rawlins discloses:

A profit estimator for estimating a profit.../estimating a profit...(Col. 7, lines 15-28);

A product selector cooperating with the profit estimator.../selecting a most profitable crop...(Col. 6, lines 31-36).

As per claim 10, 28, 61, 79, Rawlins discloses:

A production estimator.../estimating a quantity of the crop...(Col. 2, lines 12-15);

The following is inherent with Rawlins' patent because Rawlins teaches a pricing engine which correlates with the quality of the crop (See Col. 9, lines 5-13). Since both quality

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and quantity are measures of the item being produced, it would also make sense to utilize the quantity in connection with the pricing engine:

A pricing engine cooperating with the production estimator to develop a price to be offered the farm of interest to grow the quantity of the crop of interest estimated by the production estimator.../developing a price to be offered the farm of interest to grow the estimated quantity of the crop of interest.

As per claim 11, 29, 62, 80, Rawlins discloses:

Wherein the offer developer further comprises a risk identifier.../identifying a risk factor...and adjusting the price...(Col. 7, lines 15-23, where the examiner is interpreting where the quality differs in Rawlins adds the risk of the present invention).

As per claims 13, 31, 64, 82, Rawlins discloses:

Wherein the competition analyzer estimates the profits to be earned by farms in the set of farms fro growing.../wherein the step of estimating profits further comprises the step of estimating the profits to be earned by farms...(Col. 6, line 60-Col. 7, line 2).

As per claims 14, 32, 45, 83, Rawlins discloses:

Wherein, for a farm in question associated with more than one elevator/loader.../wherein, for a farm in question associated with more than one elevator/loader, the step of determining possible offers comprises determining the possible offer...with a highest relative profit...(Col. 9, lines 5-13).

As per claims 15, 33, 66, 84, Rawlins discloses:

Wherein the offer developer determines the possible offers.../wherein the step of determining possible offers is based in part upon at least one risk factor...(Col. 5, lines 49-66, Col. 6, lines 31-39).

As per claims 16, 17, 34, 35, 67, 68, 85, 86, Rawlins discloses:

Wherein the aggregate economic profiles of the elevators/loaders are based at least in part upon cost and risk...(Col. 7, lines 19-23 w/ Col. 9, lines 5-13).

9. Claims 5, 7, 23, 25, 56, 58, 74, 76, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rawlins (US Patent 5,845,229), in further view of Press-Enterprise's article "Flowers Grow Into Profitable, Global Business" and further in view of Monson (US Patent 5,689,418) as cited by the applicant.

As per claims 5, 23, 56, 74, both Rawlins and Press-Enterprise fail to disclose the following, however Monson discloses:

Wherein at least one of the at least one database comprises an on-line database...(Col. 7, lines 41-47).

It would have been obvious to one of ordinary skill in the art to have an on-line database with the motivation of ensuring accessibility to information in the database by a wide variety of people.

As per claims 7, 25, 58, 76, both Rawlins and Press-Enterprise fail to disclose the following, however Monson discloses:

Wherein the on-line database comprises an on-line exchange...(Col. 3, lines 16-19).

It would have been obvious to one of ordinary skill in the art for the on-line database to comprise an on-line exchange with the motivation of ensuring that information gets traded at a reasonable rate in a reasonable amount of time to a wide variety of people.

Response to Arguments

10. Applicant's arguments with respect to claims 6/16/03 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 703-305-1340. The examiner can normally be reached on Monday-Friday 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

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ARB

A. R. B.

July 14, 2003

Romain Janty
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